

ORDINANCE NO. 38-14**AN ORDINANCE PROHIBITING AND REGULATING THE PLACEMENT AND  
MAINTENANCE OF SIGNS IN PUBLIC RIGHTS-OF-WAY**

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**BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE  
CITY OF FORT SMITH, ARKANSAS THAT:**

SECTION 1: Except for traffic signs installed or authorized by the City of Fort Smith, and except as is provided in Sections 2, 3 and 4 of this Ordinance, it is unlawful for any person or entity to place, cause to be placed, or maintain any sign or banner in any public right-of-way or upon any utility pole, traffic sign, signal or device in any public right-of-way in the City of Fort Smith. The term public right-of-way includes the entire width of all dedicated public rights-of-way as well as all right-of-way used for public purposes by prescription. Subject to contrary determination, there is a presumption that all areas between a public sidewalk and the edge of the adjacent paved street, all drainage ditch areas, and all areas within ten (10) feet of the adjacent paved street are within a public right-of-way.

SECTION 2: The following temporary signs are exempt from the provisions of Section 1 above under the conditions, but only under the conditions stated:

(i) With permission of the adjacent property owner, if any, who maintains the right-of-way area, temporary signs no greater than four (4) square feet in size may be placed in public right-of-way, but not on a utility pole, sign or other device in the right-of-way, in an area not used for vehicular traffic at a time no earlier than Friday at 12:00 noon and, if so placed, shall be removed by the first following Monday at 12:00 noon.

(ii) With permission of the adjacent property owner, if any, who maintains the

right-of-way area, nonprofit organizations may place in public right-of-way, but not on a utility pole, sign or other device in the right-of-way, in an area not used for vehicular traffic temporary signs of a noncommercial nature for the purpose of directing the public to the location of an event or activity which promotes the general public welfare; provided no more than three (3) signs directing the general public to such event or activity shall be placed in public rights-of-way and further provided no such temporary sign shall be allowed to remain on public right-of-way for more than seven (7) consecutive days.

(iii) Sandwich board signs are permitted on the sidewalks in the Garrison Avenue Historic District area that is within the Central Business Improvement District. The sandwich board signs must comply with the CBID Design Guidelines.

SECTION 3: (a) Except as permitted by Section 2 and 4 any person or entity desiring to place a sign within public right-of-way on a temporary basis may petition the Board of Directors of the City of Fort Smith for a temporary revocable license for such use of the public right-of-way. The petition seeking a temporary revocable license for such use shall be filed with the Fort Smith City Clerk, shall be in writing, shall contain a map depicting the proposed location of the use of the public right-of-way, shall identify the dimensions of the sign proposed for temporary placement in the public right-of-way, shall identify the type of the sign by a general category such as "religious", "political", "business advertising", "special event advertising", etc., and shall be submitted in advance of any placement of a sign for which the temporary revocable license is requested. The City Clerk shall cause the petition for a temporary revocable license to be scheduled for review by the Board of Directors. The petitioned temporary sign shall not be placed prior to the issuance of an approved temporary revocable license and its continued placement shall be subject to the terms of the temporary revocable license.

(b) The City Administrator is hereby authorized and directed to prepare a form for potential issuance of a "temporary revocable license" which might be issued by the Board of Directors to authorize a temporary location of a sign in a public right-of-way and setting the conditions for the removal of the sign upon completion of the term of the license.

SECTION 4: Section 27-704-5(c) of the Fort Smith Code is hereby amended to read:

(c) No permanent sign base or support shall be erected or maintained in any public right-of-way. After obtaining an appropriate sign permit from the city, signs may be installed so that a portion of the sign occurs in the air space of a public right-of-way, subject to the following requirements:

- (1) The sign face may not be more than thirty-six (36) inches in height; and,
- (2) Any portion of the sign occurring in the public right-of-way shall be at least twelve (12) feet above the ground surface of the right-of-way; and,
- (3) The supportive post(s) (which may not be located in the right-of-way) for any such sign shall not be more than two (2) and shall not be more than sixteen (16) inches in width or diameter.
- (4) Such heights of thirty-six (36) inches and twelve (12) feet are to be measured from the elevation of the center of the street at the point of the overhanging portion of sign. If the sign occurs in or over the rights-of-way of two (2) streets, such heights of thirty-six (36) inches and twelve (12) feet are to be measured from the higher street.
- (5) All signage that is placed at intersecting streets in the triangular area (known as the sight triangle) shall be governed by (c)(1) and (c)(2) above. The sight triangle is described as the area delineated by a distance of twenty-five (25) feet along the intersecting property lines, beginning at the property corner point and extending said twenty-five (25) feet in both directions away from the corner point of intersection and then connecting the terminus points by a line to form the triangular area.

SECTION 5: Section 27-704-5(f) of the Fort Smith Code is hereby repealed on the basis that its requirement has been included within the provision adopted by Section 4 above.

SECTION 6: Enforcement.

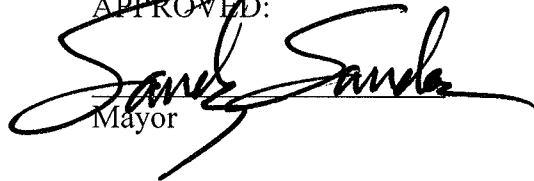
(a) Any person or entity violating the provisions of Section 1 or causing a sign to be located in the public rights-of-way in violation of the provisions of Sections 3 or 4 shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties set forth in Section 1-9 of the Fort Smith Code of Ordinances.

(b) The City Administrator, by his designated agents, is hereby authorized and directed to remove any sign violating the provisions of this Ordinance from the public rights-of-way. Any such sign removed from the public right-of-way is subject to immediate destruction. The City Administrator may develop procedures for the temporary impounding of such signs and reasonable efforts of notifying the owners of the signs of their availability of removal from impoundment by the City.

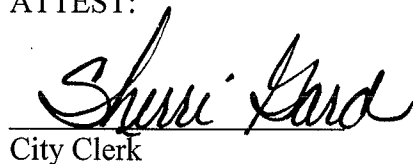
SECTION 7: The codifier of the Fort Smith Municipal Code will codify the provisions of Sections 1, 2, 3, 4, 5 and 6 of this Ordinance within the previously reserved sections of Article I of Chapter 22 of the Fort Smith Municipal Code.

This Ordinance adopted this 5<sup>th</sup> day of August, 2014.

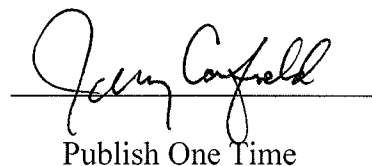
APPROVED:

  
Mayor

ATTEST:

  
City Clerk

Approved as to form:

  
Publish One Time